Supreme Court, U.S.
FILED
AUG 11 1992
OFFICE OF THE CLERK

No. 92-27

In The

Supreme Court of the United States

October Term, 1991

LEAMON THURMON GOULD,

Petitioner,

v.

P. T. KRAKATAU STEEL,

Respondent.

Petition For Writ Of Certiorari
To The United States Court Of appeals
For The Eighth Circuit

REPLY TO BRIEF IN OPPOSITION

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ARGUMENT

Respondent Krakatau, in concluding its Statement of the Case, first quotes petitioner Gould's admission that: "There has been and can be no showing that Krakatau was aware that Arkansas was the state of destination for this shipment [of wire rods]."

Krakatau then states: "Moreover, Gould must also concede that there has been no showing that Krakatau affirmatively sought to establish a market for its products in the United States."

Gould must not and does not concede this. To the contrary, the record shows that Krakatau not only "affirmatively sought to establish" an American market, but indeed accomplished its purpose. Its president and its marketing director made personal visits to the United States to confer with representatives of Empire Steel Trading Company, an American broker. Krakatau advertised the availability of its products in an international journal, pointing out, in part, that its products complied with requirements of the American Society for Testing and Materials.

As a result of these initial marketing efforts in the United States, Krakatau in late 1987 contracted with Empire for a sale of 14,000 metric tons of its products which Krakatau knew would be delivered by Empire chartered vessels to Houston, Tampa and New Orleans.

In short, Krakatau must concede that it did try to establish an American market and was successful in doing so. It simply did not know the identity of the state

or states in which its products would be used or consumed. Over $900,000.00 worth of these products came to rest in Arkansas where, while in the process of being unpackaged, they caused injury to an American citizen.

Krakatau had no prospective contact with Arkansas. But unquestionably it had a significant contact when viewed from the standpoint of the State of Arkansas, which has defined the contact through its long-arm statute, and from the standpoint of petitioner Gould, who continues to ask only for access to his only forum for relief and due process of law.

CONCLUSION

The petition for writ of certiorari to the United States Court of Appeals for the Eighth Circuit should be granted.

Respectfully submitted,

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